



King County Public Rules and Regulations

Public Rules

Title	Document Code No.
Procedures and Qualifications for School Impact Fee and Roads Mitigation Payment System Exemption for Low Income Housing	CPM 14-2 (PR)
Department/Issuing Agency Department of Community and Human Services	Date 10/10/10
Approved Jackie MacLean	

- 1.0 SUBJECT TITLE: Procedures and Qualifications to Obtain School Impact Fee and Roads Mitigation Payment System Exemptions for Low Income Housing
 - 1.1 EFFECTIVE DATE: 30 days after approval date
 - 1.2 TYPE OF ACTION: New
 - 1.3 KEYWORDS: Fee Exemption; Affordable Housing Incentives; School Impact Fee; Roads Mitigation Payment System; Low Income Housing Fee Exemption
- 2.0 PURPOSE: To implement the provisions of King County Code Chapter 21A.43 and King County Code Chapter 14.75 exempting low or moderate income housing from school impact fees and the road mitigation payment system and in accordance with the King County Consortium Consolidated Housing and Community Development Plan (consolidated plan) policies regarding affordable housing incentive programs.
- 3.0 ORGANIZATIONS AFFECTED: King County Department of Development and Environmental Services; Department of Community and Human Services; Developer/Builder; Purchaser or the public
- 4.0 REFERENCES:
 - 4.1 King County Code Chapter 21A.43, Impact Fees
 - 4.2 King County Code Chapter 14.75, Mitigation Payment System
- 5.0 DEFINITIONS:
 - 5.1 “Consolidated Plan” means the most recent edition of the King County Consortium Consolidated Housing and Community Development Plan (formerly the Comprehensive Housing Affordability Strategy) adopted at least every five years as required by the U.S. Department of Housing and Urban Development.
 - 5.2 “DCHS” means the King County Department of Community and Human Services.

- 5.3 “DDES” means the King County Department of Development and Environmental Services.
- 5.4 “HCD” means the Housing and Community Development Program of the DCHS.
- 5.5 “Impact fee” or “fee” means the development fee assessed on residential units under the school impact fee or the roads mitigation payment system.
- 5.6 “Individual developer” means any owner/household that is building a single house, contracting to build a single house, or siting a single manufactured home on a residential lot which the household owns or is purchasing for the household’s use as owner-occupant.
- 5.7 “Low or moderate income housing unit” means a rental unit or home ownership unit which meets the housing affordability requirements of these rules.
- 5.8 “Manager” means the manager or designee of the HCD.
- 5.9 “Median income” means the median income of King County adjusted for household size based on the U.S. Department of Housing and Urban Development income guidelines.
- 5.10 “Private developer” means any housing developer, except a public or nonprofit developer, constructing multiple housing units.
- 5.11 “Public or nonprofit developer” means any public housing agency or nonprofit housing developer participating in a publicly sponsored or subsidized housing program to construct one or multiple housing units.

6.0 POLICIES:

- 6.1 Impact fees shall be exempted for housing units which meet the low or moderate income housing affordability requirements and are sold or rented to, or constructed by, households who meet the income criteria of these rules.
- 6.2 Low and Moderate Income Housing Affordability Requirements. King County shall calculate annually the maximum rents and house prices allowable for units to be eligible for fee exemptions, as well as for monitoring rental rates and resale prices.
 - 6.2.1 For public housing agencies, nonprofit developers, or private developers, maximum rents and housing prices for fee-exempted low income housing units developed are determined as follows:
 - 6.2.1.1 The rent charged for fee-exempted unit shall be no greater than 30 percent of the income of households at 60 percent of median income adjusted for household size. Upon approval of the manager, there are two possible exemptions to this rule. One, an exemption may be

granted by the manager for those projects which include the cost of resident's meal and/or other services in the rent. These rents may exceed the 30 percent of income restriction by the amount commensurate to the cost of the services. Two, a public or nonprofit development that operates under a public housing subsidy program but has rents higher than the 30 percent of income restriction, with the approval of the manager, may still be eligible for a fee exemption. Such developments must serve households earning no more than 60 percent of median income and must adequately document their budget resulting in the higher rental sale.

- 6.2.1.2 Home ownership units shall be sold for a price affordable to a low income home buyer which shall be calculated with the following assumptions and requirements:
 - 6.2.1.2.1 No more than 30 percent of the income of a household at 80 percent of median income (adjusted for household size) is devoted to mortgage principal, interest, taxes, mortgage insurance, homeowner's dues, and insurance
 - 6.2.1.2.2 Five percent down payment
 - 6.2.1.2.3 Thirty year fixed rate mortgage at an interest rate equal to the lower of the Federal Housing Finance Board National Average Contract Mortgage Rate for New Constructed Homes, or the average thirty-year fixed term mortgage rate for King County as identified in the Seattle Times as of the date the unit is offered for sale.
- 6.2.1.3 A studio unit shall be affordable to a one person household, a one bedroom unit shall be affordable to a two person household, a two bedroom unit shall be affordable to a three person household, a three bedroom unit shall be affordable to a four person household, and so forth.
- 6.2.1.4 For an individual developer, the maximum house cost of a fee exempt unit is calculated as follows:
 - 6.2.1.4.1 The combined cost of land acquisition, site improvement, and building construction shall not exceed the maximum price calculated per 6.2.1.2.1 of these rules based on a household size of four persons. The Manager shall have the discretion to exclude land value in determining eligibility if the land has been owned by the purchaser for more than five years or if it has been deeded to the purchaser as a gift.

6.3 Household Income Criteria.

- 6.3.1 Fee-exempted low or moderate income rental units shall be rented to households with incomes at or below 60 percent of median income adjusted for household size.
- 6.3.2 Fee-exempted low or moderate income owner units shall be built by individual developers or purchased by homebuyers who meet the following income criteria:
 - 6.3.2.1 Households shall have incomes at or below 80 percent of median income adjusted for household size.
 - 6.3.2.2 Total household assets (excluding furniture, personal automobiles, and assets applied to the purchase of the home) shall not exceed \$100,000.
- 6.4 Covenant and Lien Required. All developments receiving an exemption under these rules (except houses constructed or sited by individual developers exempted from the road mitigation payment system) shall execute and record a covenant secured through a lien against the property guaranteeing that the exempted housing unit(s) is low income housing.
 - 6.4.1 The covenant and lien shall run with the land and apply to subsequent owners for 15 years for all housing units developed by public housing agencies, nonprofit developers, or private developers. Houses owned by individual developers that are exempted from school impact fees shall have a covenant and lien that runs with the land and applies to all subsequent owners for 10 years.
 - 6.4.2 The covenant for any development shall specify the low income housing affordability requirements, household income criteria, and required documentation of compliance. The covenant shall ensure that subsequent rentals or sales of the low income housing units shall be subject to price and income restrictions as set forth in these rules.
 - 6.4.3 The lien against the property shall equal the amount of the exempted impact fee for the housing unit(s). DDES shall calculate the impact fee due without an exemption, and the amount of the fee shall be stated in the lien.
 - 6.4.4 Subsequent purchasers of developments exempted from impact fees under these rules must assume the existing covenant and lien or execute a new covenant and lien, subject to HCD approval, for the remainder of the time period set forth in 6.4.1 of these rules.
- 6.5 Enforcement.
 - 6.5.1 If at any time during the term of the covenant, a public housing agency, nonprofit developer or private developer fails to comply with the terms of the

housing covenant in renting an exempted housing unit(s), the developer shall be notified of its failure by HCD and shall be required to comply within 90 days. If the noncompliance persists, HCD shall seek appropriate action in accordance with the enforcement provisions of Title 23 King County Code and the lien against the property shall be immediately due and payable.

6.5.2 If at any time during the term of the covenant, a household (or any subsequent owner) who is purchasing or has purchased an exempted housing unit from a public housing agency, nonprofit developer, or private developer fails to comply with the terms of the housing covenant in purchasing, selling, transferring, or conveying the housing unit(s), the lien against the property shall be immediately due and payable.

6.5.3 If at any time during the term of the covenant, an individual developer (or any subsequent owner) who owns a school-fee exempted housing unit fails to comply with the terms of the housing covenant in purchasing, selling, transferring, or conveying the housing units, the lien against the property shall be immediately due and payable.

6.6 Application Procedures. At the time of, or prior to, permit application to DDES, a housing developer shall submit a separate application for an impact fee exemption to HCD containing the following information and documentation:

6.6.1 For public or nonprofit and private developers:

6.6.1.1 Location and description of project

6.6.1.2 The number of low income units

6.6.1.3 Documentation of participation in publicly subsidized or sponsored housing program, if applicable

6.6.1.4 Projected rental rates or house prices.

6.6.2 For individual developers:

6.6.2.1 Location and description of project

6.6.2.2 Household income

6.6.2.3 Household assets

6.6.2.4 The housing price (i.e., cost of land acquisition, site improvements, and building construction)

6.6.2.5 Copy of permit application

6.6.2.6 Copy of legal description from deed or other document.

6.6.3 The HCD shall review the submitted application to determine eligibility for fee exemption and will request additional information, if necessary, to fully and completely evaluate the application for fee exemption.

- 6.6.4 The developer shall prepare a covenant and lien based on the standard document provided by HCD. The standard covenant and/or lien may be amended to forms acceptable to U.S. Department of Housing and Urban Development, Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or other institutional lenders or investors, upon the approval of HCD.
- 6.6.5 Upon approval, the developer shall record the lien and provide to HCD proof in the form of a certified or other type of copy that is date stamped by the Office of Records and Elections.
- 6.6.6 The HCD shall certify that the development qualifies for the fee exemption and shall notify DDES.
- 6.6.7 The HCD shall record a release of the lien at the end of the covenant/lien period, when the fee is paid, or when the unit is purchased by another qualified low income purchaser and a subsequent lien is recorded. The property owner shall be responsible for payment of any applicable processing or recording fees.
- 6.7 Severability. If a provision of the rules contained herein or its applicability to any person or circumstance is held invalid, the remainder of the provisions of these rules or the application of the provision to other persons or circumstances shall not be affected.

7.0 PROCEDURES:

Action By	Action
Developer (i.e., private developer, public or nonprofit developer, or individual developer)	At time of, or prior to, permit application to DDES submit a separate application to HCD for the exemption. (See 6.6 of these rules for application requirements). Application forms will be available on the King County HCD website.
HCD Staff	Review application to determine eligibility for fee exemptions. (See 6.2 of these rules for eligibility requirements).
HCD Staff	If development is eligible, provide developer with the appropriate lien for signature. (See 6.4 of these rules)
Developer	Sign lien. At developer's request the lien can be modified with HCD approval.
DCHS Director	Sign lien.
Developer	Record lien with King County Office of Records and provide HCD with the recorded lien document.

HCD Staff	Send a memo notifying DDES of the development eligibility for fee exemptions.
DDES	Exempt the applicable school impact fee and Road Mitigation Payment System for the development.
Developer/Builder or Successor	Rent, sell, or build the housing as proposed in the application for fee exemptions. (See 6.2, 6.3, and 6.4 of these rules for the requirements.
Subsequent Purchasers of Housing Unit(s)	Assume existing covenant and lien. As long as covenant runs, the purchasers are responsible for paying exempted fee amount to DDES if 1) ownership housing is resold to households earning above 80% of median income or 2) if the rental housing is not priced at an affordable amount for households at or below 50% of median income.
Subsequent Purchasers of Housing Unit(s)	If selling a unit, inform HCD of income qualifications of the new household, using the standard household eligibility form currently in use, or providing equivalent information.

8.0 RESPONSIBILITIES:

Action By	Action
Developer or Successor	<ul style="list-style-type: none"> • Apply for fee exemptions • Sign and record covenant and lien • Comply with the terms of covenant/lien • Pay exempted fees if developer does not comply • Inform subsequent purchasers of their responsibility under covenant/lien
HCD	<ul style="list-style-type: none"> • Review application for eligibility • Sign lien • Inform DDES of project's eligibility for fee exemptions • Upon request, inform applicable parties of annual income guidelines • Enforce compliance with the covenant/lien.
DDES	<ul style="list-style-type: none"> • Subtract amount of exempted fees from the total fees collected from the development project.
Subsequent Purchasers of Housing Unit(s)	<ul style="list-style-type: none"> • Assume existing covenant and lien • As long as covenant runs, the purchasers are responsible for paying exempted fee amount to DDES if

1. ownership housing is resold to households earning above 80 percent of median income
 2. if the rental housing is not priced at an affordable amount for households at or below 60 percent of median income
- Request annually updated income guidelines from HCD
 - Inform subsequent purchaser of responsibilities under the covenant and lien.

9.0 APPENDICES: None